

SECOND REGULAR SESSION

SENATE BILL NO. 818

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS RUPP, KENNEDY AND DEMPSEY.

Pre-filed December 1, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

3614S.01I

AN ACT

To repeal sections 565.090 and 565.225, RSMo, and to enact in lieu thereof three new sections relating to crimes of harassment, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 565.090 and 565.225, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 565.090, 565.091,
3 and 565.225, to read as follows:

565.090. 1. A person commits the crime of harassment if for the purpose
2 of frightening or disturbing another person, he

3 (1) Communicates in writing or by telephone a threat to commit any
4 felony; or

5 (2) Makes a telephone call or communicates in writing and uses coarse
6 language offensive to one of average sensibility; or

7 (3) Makes a telephone call anonymously; or

8 (4) Makes repeated telephone calls.

9 2. Harassment is a class A misdemeanor **unless committed by an**
10 **adult against a child, in which case, it is a class D felony.**

11 3. As used in this section, the following terms shall mean:

12 (1) "Adult", any person twenty-one years of age or older;

13 (2) "Child", any person under seventeen years of age.

565.091. 1. A person commits the crime of cyber harassment if,
2 for the purpose of frightening or disturbing another person, he or she
3 transmits or causes the transmission of an electronic communication,
4 or knowingly permits an electronic communication to be transmitted
5 to another person from an electronic communications device under his

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

6 or her control:

7 (1) Using coarse language offensive to a person of average
8 sensibility;

9 (2) Anonymously or repeatedly whether or not conversation
10 occurs; or

11 (3) Threatens to commit any felony.

12 2. No person shall make or cause to be made an electronic
13 communication, or permit an electronic communication to be made
14 from an electronic communications device under the person's control,
15 with the intent to frighten or disturb any other person in any manner
16 described in this section either by the direct action of the person
17 initiating the communication or through the actions of a third party,
18 which third party actions are instigated, initiated, prompted, or
19 brought about by the person's communication.

20 3. Any offense committed under this section may be deemed to
21 have been committed either at the place from which the communication
22 was made or at the place where the communication was received.

23 4. As used in this section, the following terms shall mean:

24 (1) "Adult", any person twenty-one years of age or older;

25 (2) "Child", any person under seventeen years of age.

26 (3) "Electronic communications", the origination, emission,
27 dissemination, transmission, or reception of data, images, signals,
28 sounds, or other intelligence or equivalence of intelligence of any
29 nature over any communications system by any method, including, but
30 not limited to, a fiber optic, electronic, magnetic, optical, digital, or
31 analog method. Such electronic communications shall include, but not
32 be limited to electronic mail, Internet-based communications, pager
33 service, and electronic text messaging;

34 (4) "Electronic communications device", any instrument,
35 equipment, machine, or other device that facilitates telecommunication,
36 including, but not limited to, a computer, computer network, computer
37 chip, computer circuit, scanner, telephone, cellular telephone, pager,
38 personal communications device, transponder, receiver, radio, modem,
39 or device that enables the use of a modem.

40 5. Cyber harassment is a class A misdemeanor unless committed
41 by an adult against a child, in which case, it is a class D felony.

565.225. 1. As used in this section, the following terms shall mean:

2 (1) **"Adult", any person twenty-one years of age or older;**

3 (2) **"Child", any person under seventeen years of age;**

4 (3) **"Course of conduct", a pattern of conduct composed of a series of acts,**
5 which may include electronic or other communications, over a period of time,
6 however short, evidencing a continuity of purpose. Constitutionally protected
7 activity is not included within the meaning of "course of conduct". Such
8 constitutionally protected activity includes picketing or other organized protests;

9 [(2)] (4) **"Credible threat", a threat made with the intent to cause the**
10 person who is the target of the threat to reasonably fear for his or her
11 safety. The threat must be against the life of, or a threat to cause physical injury
12 to, a person and may include a threat communicated to the targeted person in
13 writing, including electronic communications, by telephone, or by the posting of
14 a site or message that is accessible via computer;

15 [(3)] (5) **"Electronic communications", the origination, emission,**
16 **dissemination, transmission, or reception of data, images, signals,**
17 **sounds, or other intelligence or equivalence of intelligence of any**
18 **nature over any communications system by any method, including, but**
19 **not limited to, a fiber optic, electronic, magnetic, optical, digital, or**
20 **analog method. Such electronic communications shall include, but not**
21 **be limited to electronic mail, Internet-based communications, pager**
22 **service, and electronic text messaging;**

23 (6) **"Harasses", to engage in a course of conduct [directed at a specific**
24 **person] that serves no legitimate purpose, that would cause a reasonable person**
25 **to suffer substantial emotional distress, and that actually causes substantial**
26 **emotional distress to [that] a person.**

27 2. Any person who purposely and repeatedly harasses or follows with the
28 intent of harassing another person commits the crime of stalking.

29 3. Any person who purposely and repeatedly harasses or follows with the
30 intent of harassing or harasses another person, and makes a credible threat with
31 the intent to place that person in reasonable fear of death or serious physical
32 injury, commits the crime of aggravated stalking.

33 4. The crime of stalking shall be a class A misdemeanor for the first
34 offense **unless such crime is committed by an adult against a child, in**
35 **which case, it is a class D felony.** A second or subsequent offense within five
36 years of a previous finding or plea of guilt against any victim shall be a class D
37 felony **unless such crime is a second or subsequent offense by an adult**

38 **against a child, in which case, it is a class C felony.**

39 5. The crime of aggravated stalking shall be a class D felony for the first
40 offense. A second or subsequent offense within five years of a previous finding
41 or plea of guilt against any victim shall be a class C felony.

42 6. Any law enforcement officer may arrest, without a warrant, any person
43 he or she has probable cause to believe has violated the provisions of this section.

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Unofficial

Bill

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